

HOUSE BILL NO. 397

INTRODUCED BY V. JACKSON, ADAMS, BOOKOUT-REINICKE, BRANAE, D. BROWN, BRUEGGEMAN,
CURTISS, DALE, DELL, DEPRATU, ELLIS, ERICKSON, LASLOVICH, LAWSON, OLSON, A. PETERSON,
RIPLEY, SMITH, SOMERVILLE, TAYLOR, B. THOMAS, TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CLARK FORK RIVER BASIN TASK FORCE;
REQUIRING THE TASK FORCE TO DEVELOP A WATER MANAGEMENT PLAN FOR THE BASIN;
REQUIRING THE TASK FORCE TO SUBMIT ~~AN INTERIM REPORT~~ REPORTS TO THE GOVERNOR AND THE
LEGISLATURE; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO
PROVIDE A WRITTEN NOTICE WHEN THE DEPARTMENT ISSUES WATER USE PERMITS IN THE CLARK
FORK RIVER BASIN ~~PENDING COMPLETION OF A CERTAIN COMPONENT OF THE WATER~~
~~MANAGEMENT PLAN~~; SPECIFYING THE CONTENTS OF THE WRITTEN NOTICE; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Clark Fork River basin task force -- water management plan. (1) ~~The~~
~~governor shall appoint a Clark Fork River basin task force to prepare a water management plan for the~~
~~Clark Fork River basin pursuant to 85-1-203. Task force members must be selected on the basis of their~~
~~knowledge of water use, water management, and water conservation. The task force must include~~
~~representatives of the various types of water users within the basin and representatives from the following~~
~~watersheds or river reaches:~~ THE GOVERNOR'S OFFICE SHALL DESIGNATE AN APPROPRIATE ENTITY TO CONVENE AND
COORDINATE A CLARK FORK RIVER BASIN TASK FORCE TO PREPARE A WATER MANAGEMENT PLAN FOR THE CLARK FORK
RIVER BASIN PURSUANT TO 85-1-203. THE DESIGNATED APPROPRIATE ENTITY SHALL:

(A) IDENTIFY THE INDIVIDUALS AND ORGANIZATIONS, BOTH PUBLIC, TRIBAL, AND PRIVATE, THAT ARE INTERESTED
IN OR AFFECTED BY WATER MANAGEMENT IN THE CLARK FORK RIVER BASIN;

(B) PROVIDE ADVICE AND ASSISTANCE IN SELECTING REPRESENTATIVES TO SERVE ON THE TASK FORCE;

(C) DEVELOP, IN CONSULTATION WITH THE TASK FORCE, APPROPRIATE OPPORTUNITIES FOR PUBLIC PARTICIPATION
IN THE DEVELOPMENT OF A WATER MANAGEMENT PLAN; AND

(D) ENSURE THAT ALL WATERSHED AND VIEWPOINTS WITHIN THE BASIN ARE ADEQUATELY REPRESENTED ON THE

1 TASK FORCE, INCLUDING A REPRESENTATION FROM THE FOLLOWING:

2 ~~(a)(i)~~ the reach of the Clark Fork River in Montana below its confluence with the Flathead River;

3 ~~(b)(ii)~~ the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of

4 the Flathead River and the Clark Fork River ~~AND INCLUDING THE FLATHEAD INDIAN RESERVATION; . AT LEAST ONE~~

5 ~~REPRESENTATIVE FROM THIS BASIN MUST BE A REPRESENTATIVE OF THE CONFEDERATED SALISH AND KOOTENAI TRIBAL~~

6 ~~GOVERNMENT.~~

7 ~~(c)(iii)~~ the Flathead River basin upstream from Flathead Lake;

8 ~~(d)(iv)~~ the reach of the Clark Fork River between the confluence of the Blackfoot River and the

9 Clark Fork River and the confluence of the Clark Fork River and the Flathead River;

10 ~~(e)(v)~~ the Bitterroot River basin as defined in 85-2-344; and

11 ~~(f)(vi)~~ the Upper Clark Fork River basin as defined in 85-2-335.

12 ~~—— (2) The task force shall conduct scoping meetings throughout the basin prior to the development~~

13 ~~of a draft water management plan. The task force shall use a collaborative, public process to prepare the~~

14 ~~water management plan.~~

15 ~~(3)(2)~~ The task force shall examine, for applicability to the water management plan, existing laws,

16 rules, plans, and other provisions affecting water management in the Clark Fork River basin, including:

17 (a) the temporary closure of Bitterroot River subbasins pursuant to 85-2-344;

18 (b) the closure of the Upper Clark Fork River basin pursuant to 85-2-336;

19 (c) the restrictions on ground water development in the Upper Clark Fork River basin provided for

20 in 85-2-337; and

21 (d) the Upper Clark Fork River basin management plan, adopted as a section of the state water

22 plan pursuant to 85-1-203.

23 ~~(4)(3)~~ The task force shall prepare a water management plan for the Clark Fork River basin

24 pursuant to 85-1-203. The water management plan must:

25 ~~(a)~~ identify options to protect ~~existing~~ THE SECURITY OF water ~~uses~~ RIGHTS and ~~water supplies to~~

26 ~~meet current needs, including hydropower generation;~~ PROVIDE FOR THE ORDERLY DEVELOPMENT AND

27 CONSERVATION OF WATER IN THE FUTURE.

28 ~~—— (b) identify options to provide water for future needs;~~

29 ~~—— (c) identify options to provide for the orderly development of water in the Clark Fork River basin;~~

30 and

~~_____ (d) identify options for the uniform enforcement of water rights in the Clark Fork River basin on the basis of priority date.~~

~~(5)(4) The task force shall submit an interim report ANNUALLY BY OCTOBER 31 on its activities to the governor and the legislature, ~~by December 31, 2002.~~~~

~~(6)(5) The water management plan, including the information prepared by the task force under this section, must be submitted to the 59th legislature, as provided in 85-1-203, BY OCTOBER 31 SEPTEMBER 15, 2004.~~

~~_____ (6) STATE FUNDS MAY NOT BE EXPENDED FOR TASK FORCE PURPOSES.~~

NEW SECTION. Section 2. Notice to permitholders -- Clark Fork River basin. ~~Until a water management plan is adopted for the Clark Fork River basin that establishes a procedure for uniformly enforcing water rights on the basis of priority date throughout the basin, the~~ THE department shall provide a written notice to each person that receives a provisional water use permit to appropriate water within the Clark Fork River basin. The written notice must state: "This provisional water use permit has a priority date that is junior to the rights of senior water right holders in the Clark Fork River Basin. In accordance with Montana law, you may be subject to a call by senior water right holders, in which case you ~~will~~ MAY be required to discontinue your use of water for the period of the call."

NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 85, and the provisions of Title 85 apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 85, chapter 2, part 3, and the provisions of Title 85, chapter 2, part 3, apply to [section 2].

NEW SECTION. Section 4. Notification to tribal government. The secretary of state shall send a copy of [this act] to the tribal government located on the Flathead Indian reservation.

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. Termination. [This act] terminates ~~December 31, 2004~~ APRIL 15, 2005.

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